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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,981	03/22/2001	Herbert Ulrich	879.154USWO	9996
23552	7590	04/19/2005		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER DEL SOLE, JOSEPH S	
			ART UNIT	PAPER NUMBER

1722

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/787,981

Applicant(s)

ULRICH ET AL.

Examiner

Joseph S. Del Sole

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1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 7-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 7, newly amended 3/16/05, recites the limitation "wherein the device further comprises a water bath for cooling down and hardening the plastic pipe". In so much as this limitation is interpreted to mean a bath filled with water, such subject matter was not described in the specification. At lines 4-14 of page 4 the specification describes a water spray with a feed 6 and an outlet, and that the bath is a vacuum bath. The specification does not teach a water bath as claimed and does not teach beyond a vacuum calibrating bath with a water shower. Since the original disclosure does not describe a water bath, there is no support for the newly added claim and is new matter.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schott, Jr. (3,980,418) in view of any of Upmeier (3,930,781), Sharps, Jr. (4,683,094) or Van Kralingen (3,753,633).

Schott, Jr. teaches a device for producing an extruded plastic pipe (Fig 1, #14) having a longitudinal axis and an outer surface defining an outer diameter, the device having a calibrating station (Fig 1, #18) having at least first and second lamellae rings (Fig 1, any of A, B and C) each including a plurality of lamellae (Fig 1, #20) aligned

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circumferentially thereby defining an inner diameter for each of the first and second lamellae rings (Fig 2), the first and second lamellae rings each further including a plurality of adjustment arms (Fig 2, #s 30, 32 and 40), each adjustment arm begin secured to separate lamellae (Fig 2), the first lamellae ring being located at a first position along the longitudinal axis of the pipe and the second lamellae ring being located at a second position along the longitudinal axis of the pipe being spaced apart around the circumference of the pipe; the lamellae being individually adjustable relative to the outer surface of the pipe (Figs 1 and 2, by individual adjustment arm 30, 32 and 40); wherein contact between the outer surface of the pipe and the inner tubular core of the calibrating station adjusts the outer diameter of the pipe; the lamellae each include a contracting edge defined by rollers having a fixed contour corresponding to a large possibly outer diameter of the tube; the adjustment of the lamellae is done by motorized means 70 or manually 60; the lamellae of the first and second lamellae rings are spaced apart around a circumference of the pipe so as to have gaps between the lamellae (Figs 1 and 2); and the lamella of the first and second lamellae rings interlocking in a continuous mesh pattern.

Schott, Jr. fails to teach the device further having a water bath.

Upmeier teaches a water bath in a device subsequent to the formation of blown film for the purpose of post-cooling of the film (col 1, lines 20-34). Sharps, Jr. teaches a water bath in a device subsequent to the formation of blown film for the purpose of cooling and sufficient quenching (col 1, lines 26-46 and col 4, lines 4-8). Van Kralingen (3,753,633) teaches a water bath (Fig 1, #15) in a device subsequent to the formation of

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blown film for the purpose of cooling the film after the film has been collapsed (col 5, lines 25-47).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Schott, Jr. with a water bath in the blown film device, subsequent to the blown film, as taught by each of Upmeier, Sharps, Jr. and Van Kralingen because such a water bath enables post-cooling of the film through quenching after the film has been collapsed.

### ***Response to Arguments***

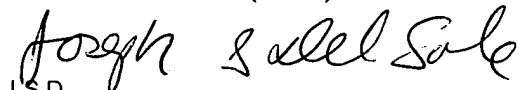
5. Applicant's arguments with respect to claims 7-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Benjamin Utech, can be reached at (571) 272-1137. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).



J.S.D.  
April 14, 2005